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Patent  
Attorney Docket No. 024007-061

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Edward Ydoate et al.

Application No.: 10/770,514

Filing Date: February 4, 2004

Title: METHOD AND APPARATUS FOR DIVERTING ARTICLES FROM A CONVEYOR

Group Art Unit: 3651

Examiner: Joseph E. Valenza

Confirmation No.: 1766

AMENDMENT/REPLY TRANSMITTAL LETTER

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Enclosed is a reply for the above-identified patent application.

☐ A Petition for Extension of Time is also enclosed.

☐ Terminal Disclaimer(s) and the ☐ \$65.00 (2814) ☐ \$130.00 (1814) fee per  
Disclaimer due under 37 C.F.R. § 1.20(d) are also enclosed.

☐ Also enclosed is/are \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☐ Small entity status is hereby claimed.

☐ Applicant(s) requests continued examination under 37 C.F.R. § 1.114 and enclose the  
☐ \$395.00 (2801) ☐ \$790.00 (1801) fee due under 37 C.F.R. § 1.17(e).

☐ Applicant(s) requests that any previously unentered after final amendments not be entered.  
Continued examination is requested based on the enclosed documents identified above.

☐ Applicant(s) previously submitted \_\_\_\_\_  
\_\_\_\_\_  
on \_\_\_\_\_  
for which continued examination is requested.

☐ Applicant(s) requests suspension of action by the Office until at least \_\_\_\_\_,  
which does not exceed three months from the filing of this RCE, in accordance with 37 C.F.R.  
§ 1.103(c). The required fee under 37 C.F.R. § 1.17(i) is enclosed.

☐ A Request for Entry and Consideration of Submission under 37 C.F.R. § 1.129(a) (1809/2809) is also  
enclosed.

- ☒ No additional claim fee is required.
- ☐ An additional claim fee is required, and is calculated as shown below.

AMENDED CLAIMS					
	No. of Claims	Highest No. of Claims Previously Paid For	Extra Claims	Rate	Additional Fee
Total Claims	16	MINUS 24 =	0	x \$50.00 (1202) =	\$ 0.00
Independent Claims	4	MINUS 5 =	0	x \$200.00 (1201) =	\$ 0.00
If Amendment adds multiple dependent claims, add \$360.00 (1203)					
Total Claim Amendment Fee					\$ 0.00
<input type="checkbox"/> Small Entity Status claimed - subtract 50% of Total Claim Amendment Fee					\$ 0.00
<b>TOTAL ADDITIONAL CLAIM FEE DUE FOR THIS AMENDMENT</b>					<b>\$ 0.00</b>

- ☐ A check in the amount of \_\_\_\_\_ is enclosed for the fee due.
- ☐ Charge \_\_\_\_\_ to Deposit Account No. 02-4800.
- ☐ Charge \_\_\_\_\_ to credit card. Form PTO-2038 is attached.

The Director is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17, 1.20(d) and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.

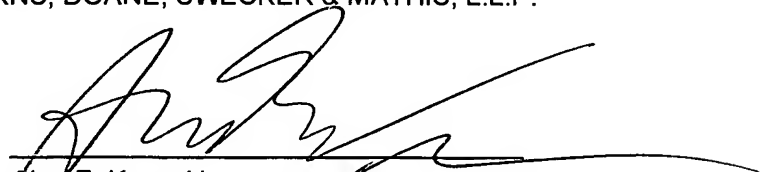
Respectfully submitted,

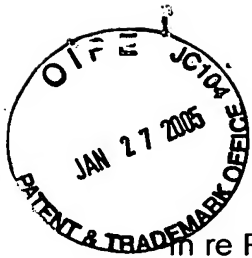
BURNS, DOANE, SWECKER & MATHIS, L.L.P.

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Date: January 27, 2005

By

  
Alan E. Kopecki  
Registration No. 25,813



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

Edward Ydoate et al.

Application No.: 10/770,514

Filed: February 4, 2004

For: METHOD AND APPARATUS FOR  
DIVERTING ARTICLES FROM A  
CONVEYOR

) **MAIL STOP/ AF**

) Group Art Unit: 3651

) Examiner: Joseph E. Valenza

) Confirmation No.: 1766

**REQUEST FOR RECONSIDERATION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated December 17, 2004, reconsideration of the subject application is respectfully requested.

Claim 25 has been rejected as anticipated by Kurczak. However, claim 25 recites that the motion damper includes a cylinder having a "self-contained" supply of flowable medium. As pointed out in the first full paragraph of page 11 of the previous response, the fact that the supply of flowable medium is self-contained in the cylinder means that the cylinder can only act as a motion damper; the medium cannot positively pivot the pusher portion between its extended and retracted positions as is required in Kurczak in order for Kurczak's cylinders 60' and 60'a to function for their intended purpose. That is, Kurczak supplies the cylinders 60' and 60'a with pressurized medium from a remote source via fluid lines 126, 128 (i.e., the fluid is not self-contained in the cylinders) in order to positively displace the arm member 54 between its extended and retracted positions and rigidly hold the arm in each of those positions. It is apparent that if Kurczak's cylinders possessed a self-contained

supply of fluid, they could not function in that manner. That is understandable, since the cylinders of Kurczak are intended to function as actuators, not motion dampers.

The Official action made no comment concerning this significant difference between claim 25 and Kurczak, and it is not seen how Kurczak could be considered as anticipating claim 25 in light of the difference.

Accordingly, it is submitted that claim 25 distinguishes patentably over Kurczak.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

Date: January 27, 2005

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